

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

JANIE R. WAINWIGHT

PLAINTIFF

VS.

CASE NO: 5:12-CV-00334-JLH

DAVIS LIFE CARE CENTER

DEFENDANT

**PLAINTIFF'S MOTION TO AMEND SCHEDULING ORDER AND
TO EXTEND MOTIONS AND DISCOVERY DEADLINES**

COMES now the Plaintiff, Janie R. Wainwright, by and through her attorney, Teresa Bloodman, and for her Motion to Amend Scheduling Order and moves this Court for an order amending the scheduling order and extending motions and discovery deadlines for the following reasons:

1. On February 4, 2013, the Final Scheduling Order was entered by this Court .
2. The Discovery cutoff date is October 29, 2013 and motions deadline date is November 27, 2013.
3. That on October 7 and 9, 2013, depositions of defendant's employees and former employees were conducted in this matter; specifically Cathy Cash, Grace Varnell, Barbara Gray, Louise King. During deposition, defendant's employees and former employees testified and provided the names of additional employees and former employees who have relevant

information to Plaintiff's claims. Many of the named persons were not previously disclosed in any of the documents provided by defendant.

Plaintiff did not previously know of those persons or that they had knowledge and relevant information related to Plaintiff's claims.

Specifically, Telisha Calloway, Carla Frasier, Amanda Nelson, Patti Bolen, Allison Davis, Treena Hall, Shantell Toston, Annie Wright and Christie Bogord .

4. Further, during deposition on October 9, 2013, of the defendant's employees, Barbara Gray and Cathy Cash, it was revealed that there is another employee who participated in the decision to terminated Plaintiff, named Telisha Calloway. Ms. Calloway name was not previously revealed or provided by the defendant.

5. Further, during deposition of Cathy Cash, Ms. Cash testified that she has the address and contact information of the former employees Telisha Calloway, Carla Frasier, Amanda Nelson, Allison Davis, Treena Hall, Shantell Toston, Annie Wright, Christie Bogord and would provide them to Plaintiff. However, the same has not been provided.

6. The deposition of those named persons in paragraphs three (3), four (4) and five (5) are necessary witnesses and vital to the just resolution of this case.

7. The necessary witnesses are unavailable because the defendant has

not provided the Plaintiff with the contact information, which acknowledged by the defendant, remains in the possession of the Defendant. Plaintiff has diligently sought other avenues to obtain the witnesses contact information, yet been unsuccessful.

8. Further, during deposition on October 9, 2013, of the defendant's former employee, Cathy Cash, it was revealed that there is additional discovery, which was requested by the Plaintiff, yet which has not been provided by the Defendant to the Plaintiff that is also vital to the just resolution of this case. To wit; 1) printouts of all reports reflecting Plaintiff's PTO and Sick Leave beginning January 1, 2011 through Plaintiff's termination date; 2) name and contact information of all employees in past twelve (12) months preceding the termination of Plaintiff that were disciplined or terminated; 3) copy of Plaintiff's paystubs of the beginning September 2009 until the date of Plaintiff's termination; 4) Copy of Plaintiffs' employee file; 5) copy of Plaintiff's Retirement Benefits package; 6) names of all employees terminated for exhaustion of FMLA and 7) Plaintiff's employee file. The same has not yet been provided to Plaintiff. Specifically, those documents are relevant and specifically related to Plaintiff's claim.

9. Ms. Cash and counsel for Defendant advised they would provide

Plaintiff with copies of the discovery listed in the paragraph six (6) herein.

However, the same has not been provided.

10. Plaintiff has been unable to complete discovery due to opposing counsels tactics of not providing the discovery in paragraphs three (3) through six (6) as previously advised and the same has caused delay in the discovery process.

11. In order to obtain, the additional information, discovered during the depositions, and the outstanding discovery, the moving party must conduct additional discovery, which the moving party anticipates will take an additional ninety (90) days.

12. This motion is made in good faith and not for purposes of delay.

13. Neither party will be prejudiced by the granting of the relief sought herein. On the other hand, Plaintiff will be significantly and unfairly prejudiced should this motion be denied, in that it will have been denied any meaningful right to conduct and complete discovery of newly named witnesses and outstanding discovery not yet provided by the Defendant.

14. Due to the outstanding discovery, the Plaintiff is unable to comply with the court's discovery deadline.

15. That justice requires modification in the scheduling order.

16. Plaintiff's Motion clearly sets forth a good faith basis for granting

this enlargement.

17. Plaintiff respectfully requests that the Court exercise its discretion and permit the requested enlargement of time for the good cause stated herein.

18. Plaintiff's counsel attempted to confer in good faith with opposing counsel prior to filing this Motion to Amend Scheduling Order and at the filing of this motion opposing counsel has not responded. (Exhibit A)

WHEREFORE, Plaintiff prays that Plaintiff's Motion to Amend Scheduling Order and extending motions and discovery deadlines by allowing ninety (90) additional days for discovery be granted and for all other relief deemed proper and just.

Respectfully Submitted,

/s/Teresa Bloodman #2005055
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CERTIFICATE OF SERVICE

I, Teresa Bloodman, do hereby certify that a true and correct copy of the Motion to Amend Pretrial Scheduling Order electronically pleading was electronically filed, this 27th day of October, 2013, with the Clerk of Court using the CM/ECF System, which will send notification of such filing to:

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